

UNITED STATES BANKRUPTCY COURT
DISTRICT OF SOUTH CAROLINA

IN RE:)	
)	
MARK ALLEN CRADDOCK)	Bankruptcy Case No.: 08-00685-dd
DONNA KIRVEN CRADDOCK)	
)	Chapter 13
Debtors,)	
)	
MARK ALLEN CRADDOCK,)	Adversary Case No.:
DONNA KIRVEN CRADDOCK,)	
)	
Plaintiff,)	
)	
vs.)	AMENDED
)	ADVERSARY COMPLAINT
)	
LITTLE HAWAII AUTO SALES)	
)	
Defendant,)	

Plaintiffs, Mark Allen Craddock and Donna Kirven Craddock, would respectfully allege as follows:

1. Plaintiffs filed a Chapter 13 petition on February 1, 2008, listing Defendant, Little Hawaii Auto Sales, LLC, as an interested party creditor and notice was duly provided to Little Hawaii Auto Sales, LLC.
2. Notice of Plaintiff's bankruptcy was provided to Defendant, Little Hawaii Auto Sales, LLC., in the Notice of Chapter 13 Bankruptcy Case, 341 Meeting of Creditors notice dated February 4, 2008.
3. After receiving notice of Plaintiffs Chapter 13 bankruptcy filing Defendant, Little Hawaii Auto Sales, LLC, caused Plaintiff's vehicle, a 1989 Chevrolet Blazer, property of the bankruptcy estate, to be repossessed on Friday, February 8, 2008.
4. Bankruptcy counsel for Plaintiff corresponded with Defendant on February 13, 2008 and February 15, 2008, yet despite Plaintiffs earnest attempts Defendant has refused to turn over property of the bankruptcy estate to Plaintiff. (Exhibit "A" and Exhibit "B")
5. Defendant Little Hawaii Auto Sales, LLC, sent to Plaintiff a Right to Redeem on February 11, 2008 indicating their intent to sell the vehicle. (Exhibit "C")

6. Defendant, Little Hawaii Auto Sales, LLC, has violated 11 U.S.C. 362(a)(3) by repossessing Plaintiffs' 1989 Chevrolet Blazer

8. This court has jurisdiction of this matter under 28 U.S.C. Section 1334. This is a core proceeding under 28 U.S.C. Section 157. Venue is appropriate under U.S.C. 1409.


9. As a result of Defendant's violation of the stay Plaintiffs have suffered damages, emotional distress, unnecessary costs and attorney's fees.

10. Plaintiffs believe that the actions of Defendant constitute a willful violation of 11 U.S.C. 362. Plaintiffs further believes that under 11 U.S.C. Section 105 this court has power to issue an order for Defendant's contempt which necessitated this Adversary Complaint, causing Plaintiffs' damages, emotional distress, unnecessary costs, attorney's fees and damages.

WHEREFORE, Plaintiffs would ask this court to order Defendant to immediately turn over the vehicle to Plaintiffs and to fashion a remedy which this court believes to be fair and equitable, together with appropriate fees and costs (damages, attorney's fees) being awarded to Plaintiffs.

TROTTER & MAXFIELD, ATTORNEYS

By:


Gene Trotter, Esquire
District Court I.D. #4145
Attorney for Plaintiff
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February 29, 2008
Columbia, South Carolina

MICHAEL J. COX

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Member of the South Carolina and Florida Bars

February 13, 2008

Joseph Watford
Little Hawaii Auto Sales, LLC
2905 East Palmetto Street
Florence, South Carolina 29506

Re: Mark and Donna Craddock Chapter 13
Bankruptcy Case No.: 08-00685

Dear Mr. Watford:

This letter is to follow up on two telephone conversations which I made to Little Hawaii Auto Sales, LLC on February 11, 2008 when I spoke with your wife and a person named Joey, perhaps your son. Rob Doyle my Paralegal also speak with you on February 11, 2008. Despite my requests, you have failed to return my calls.

Mr. and Mrs. Craddock filed for bankruptcy relief on February 1, 2008. You are listed as a creditor. After receiving actual notice of a Chapter 13 bankruptcy filing from the Craddocks, you caused their vehicle, a 1989 Chevrolet Blazer, to be repossessed on Friday, February 8. After February 1, 2008 the vehicle became property of the bankruptcy estate. It is a violation of federal law to sell or conceal property of the estate. Further you advised my paralegal today that the vehicle had already been sold in the short period of time between Friday and Monday February 11, 2008. This appears to be a real problem for you in several regards:

1. You are in willful violation of the automatic stay.
2. You may have sold property that belongs to the bankruptcy estate which is in violation of a federal law. If you are concealing it this is also a violation of federal law.
3. You appear to have violated a group of consumer statutes including providing the Craddocks with a notice of a right to cure and providing them notice to redeem this vehicle.

I would urge you to call me immediately to minimize your damages in this matter. I would urge you to speak with an attorney who is knowledgeable about bankruptcy matters. If necessary, I will sue you and your business in the bankruptcy court. It would be much better for all concerned for us to come to an arrangement whereby you can get the debtors back into their vehicle or a replacement vehicle and sort out the damages as we move along. The choice is yours. I look forward to hearing from you by Tuesday, February 19, 2008, I will have no alternative other than to sue you and your business for a willful violation of the automatic stay, for wrongfully withholding property for the estate and for violations of various consumer protection statutes.

Please deal with this matter immediately.

Sincerely,

Michael Cox

Exhibit "A"

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February 15, 2008

Joseph & Lily Watford
Little Hawaii Auto Sales
2905 East Palmetto Street
Florence, South Carolina 29506

Re: Mark and Donna Craddock Chapter 13
Bankruptcy Case No.: 08-00685

Dear Mr. and Mrs. Watford:

This letter is to follow up on my letter to you dated February 13, 2008.

Enclosed please find a copy of the "Right to Redeem" dated February 11, 2008 send by Lily Watford to Mrs. Craddock. After a bankruptcy filing it is improper for you to communicate directly with the Craddocks. This is yet another violation of the Automatic Stay.

Demand is hereby made to immediately return the 1989 Chevrolet Blazer which was wrongfully repossessed immediately. If this vehicle has not been returned to the Craddock's by Tuesday February 19, 2008 at 5pm, I will have not alternative other than to sue both you individually and your business for a willful violation of the stay and for an order compelling the turnover of this vehicle. I will also ask that the Court order that you pay the fees and costs associated with bringing this matter. Please call Rob Doyle, a paralegal in my office to discuss the turnover.

The choice is yours. Make it a wise one.

Sincerely,

Michael Cox

**LITTLE HAWAII AUTO SALES
2905 EAST PALMETTO STREET
FLORENCE, S.C. 29506**

Donna Craddock
2623 Kingston Dr
Florence, SC 29505

February 11, 2008

RIGHT TO REDEEM

Dear Ms Donna Craddock,

This letter is to inform you that the 1989 Chevrolet Blazer that you purchased on 06-22-07 is under repossession.

You have ten days to pay the total amount due. The total amount due is \$1649.57. This amount includes pickup fee and late fees.

This amount must be paid by 02-21-08.

The vehicle will be put back on the lot for sale 02-22-08.

If you have any questions, please call 843-673-0565.

Any personal belongings left in the vehicle, must be removed before the final day. Your keys to the vehicle must be released before anything can be removed.

Thank you,

Lily Watford

Lily Watford
Office Manager

Filing Instructions

File ☒ Flap # 6
Scan ☒
Shred ☐
Trash ☐
Return ☐